RAJYA SABHA

Monday, the 25 th April, 1994, 5 *Vaishakh,* 1916 *(Saka)*

The House met at eleven of the clock. Mr. Chairman in the chair.

THE LEADER OF THE OPPOSITION (SHRI SIKANDER BAKHT) : Welcome to you, Sir.

SHRI S. JAIPAL REDDY : We welcome you.

MR. CHAIRMAN : Thank you. May (also welcome all the new Members who have taken their seats when I was away ? *(Interruptions) Quid pro quo.*

Question No. 381.

ORAL ANSWERS TO QUESTIONS

Patenting of Medicines under GATT

*381. SHRI CHIMANBHAI MEHTA: † SHRI SARADA MOHANTY :

Will the Minister of COMMERCE be pleased to state :

(a) whether it is a fact that there is no obligation under GATT to patent any existing madicine ;

(b) whether it is a fact that India would have to frame a product patent law and if so, what is the last date stipulated under GATT to frame such a law ;

(c) whether India would be in a position to produce internationally patented medicines during the transition period without the consent of patenters;

(d) whether the patenters of new medicines would have the right to price their product arbitrarily ; and

(e) if not, what is the mechanism and formula to keep their prices at a reasonable level ?

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI KAMALUDDIM AHMED) : fa) to (e) A statement is laid on the Table of the House.

†The question was actually, asked on the floor of the House by-..Shri Chimanbhai Mehta.

Statement

Patenting of Medicines under GATT

(a) Yes Sir.

(b) Yes sir. A product-patent law covering medicines will have to be instituted in India as per the TRIPS Agreement by the end of the 10 year transition period from the coming into force of the Agreement establishing the World Trade Organisation.

(c) During the transition period manufacturers in India can produce medicines patented elsewhere without consent of the patent-holder, except those medicines which are patented after the entry into force of the agreement establishing the WTO and for which a patent application has been filed in India.

(d) and (e) The TRIPS Agreement does not prohibit the use of price control measures. The Agreement also contains other safeguards like compulsory licensing against the abuse of patent rights by the right holder.

SHRI CHIMANBHAI MEHTA : Mr. Chairman, Sir, some doubts were raised about the unlimited right of the patent-holders abroad. It was feared that they would get the freedom to exploit the Indian Market. To an extent, those fears have been dispelled.

In reply to part (c) of my question, it has been clarified that during the transition period, manufacturers in India can produce medicines patented elsewhere without consent of the patent-holder. So far, so pood. But there is a rider 'except those medicines which are patented after the entry into force of the agreement establishing the W.T.O., and for which a patent application has been field in India. Now. on the one hand, medicines need not be patented during the transition period of ten years; i.e. till 2005. But this freedom is limited by introducing another clause that the moment the W.T.O. comes into existence, manufacturers in India cannot produce medicines—even within this ten-year period—for which patents have been taken abroad. In this context.